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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,836	09/21/2000	Norioki Fujimoto	JCLA6695	1351

7590

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J.C. PATENTS
4 VENTURE SUITE 250
IRVINE, CA 92618

EXAMINER

DEXTER, CLARK F

ART UNIT	PAPER NUMBER
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3724

21

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/667,836

Applicant(s)

Fujimoto et al.

Examiner

Clark F. Dexter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Dec 23, 2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 7-11, and 13 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2, 7-11, and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

1. The amendment filed December 23, 2003 has been entered. The indicated allowability of claims 10 and 11 is withdrawn in view of the newly discovered reference to Vermes et al. Rejections based on the newly cited reference follow. Additionally, upon further consideration, new grounds of rejection under 35 USC 112 are necessary that were not, in all instances, necessitated by applicant's amendment. Accordingly, this Office action is being made **non-final**, and any inconvenience caused by this Office action is regretted.

Claim Rejections - 35 USC § 112

2. Claims 2, 7-9, 11 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, line 7, the recitation "and then making the tablet ... fall" is vague and indefinite since sufficient structure has not been set forth to perform such a function, and it is suggested in line 6 to insert "--angled downwardly in the tablet's moving direction--" after "oblique plate" or the like.

In claim 11, line 7, the recitation of "fallen" renders the claim vague and indefinite since sufficient structure has not been set forth to perform such a function; in line 8, "the tablet's fallen direction" lacks positive antecedent basis.

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In claim 13, line 6, the recitation of “to fall” is awkwardly worded and further renders the claim vague and indefinite since sufficient structure has not been set forth to perform such a function; in lines 6-7, the recitation “and a second end where is in vicinity” is awkwardly worded and vague as to what is being set forth, and it seems that “where is in” should be changed to --in the-- or the like; in line 10, “the position modification device” lacks antecedent basis, and it is suggested to change it to --the oblique plate--; in line 15, the recitation “wherein the retainer device is expanded” is vague and indefinite as to what is being set forth, particularly because it is not clear as to what “expanded” refers.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Vermes et al.,
pn 3,727,495.

Vermes discloses an apparatus with every structural limitation of the claimed invention including a rotary blade (e.g., 68, 72); an arranging device (e.g., 83); a retainer device (e.g., 86); and a conveying device (e.g., 90).

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Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 11, as understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Vermes et al., pn 3,727,495.

Vermes discloses an apparatus with almost every structural limitation of the claimed invention as described above and further including a position modification device (e.g., 62, 63). Vermes lacks the arranging device moving the tablet along an arc channel (i.e., Vermes lacks an arc channel and structure to move the work piece there along). However, the Examiner takes Official notice that it is old and well known in the art to provide arranging devices in any one of number of configurations based on various well known manufacturing considerations including product line configurations, etc. Therefore, it would have been obvious to one having ordinary

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skill in the art to replace the linear work piece pushing structure with an arcuate channel and arcuate pushing structure for the well known benefits including those described above.

Allowable Subject Matter

7. Claims 2, 7-9 and 13 appear that they would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404. The examiner's typical work schedule is Monday, Tuesday, Thursday and Friday, and he can be reached during normal business hours on these days.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Allan Shoap, can be reached at (703)308-1082.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers Technology Center 3700 are: after-final responses - (703)872-9303; other formal/official papers - (703)872-9302. The fax number for informal/draft papers - (703)305-9835.



Clark F. Dexter
Primary Examiner
Art Unit 3724

cfd
February 19, 2004